

1 Erica J. Van Loon (State Bar No. 227712)
2 evanloon@nixonpeabody.com
3 Stacy M. Boven (State Bar No. 298734)
4 sboven@nixonpeabody.com
5 Jacqueline Relatores (State Bar No. 341583)
6 jrelatores@nixonpeabody.com
7 NIXON PEABODY LLP
8 300 S. Grand Avenue, Suite 4100
9 Los Angeles, CA 90071-3151
10 Telephone: (213) 629-6000
11 Facsimile: (213) 629-6001

12 *Attorneys for Defendants and Counter-Plaintiffs*
13 Typical Gamer, Chad Mustard, and
14 Jogo Studios, Inc.

15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**

17 MM Games d.o.o.,

18 Plaintiff,

v.

19 Andre Rebelo-Soares d/b/a Typical
20 Gamer, Chad Mustard, and Jogo Studios,
21 Inc.

22 Defendants.

23 Case No. 2:25-CV-01969-GW-JPR

24 **COUNTER-PLAINTIFFS’
COUNTERCLAIMS AGAINST
COUNTER-DEFENDANTS MM
GAMES D.O.O AND MATEO
MARTIC**

25 **JURY TRIAL DEMANDED**

26 Judge: Hon. George H. Wu
27 Complaint filed: March 6, 2025

28 Andre Rebelo-Soares d/b/a Typical
Gamer, Chad Mustard, and Jogo Studios,
Inc.

Counter-Plaintiffs,

v.

MM Games d.o.o. and Mateo Martic

Counter-Defendants.

COUNTERCLAIMS

Counter-Plaintiffs Andre Rebelo-Soares d/b/a Typical Gamer, Chad Mustard, and Jogo Studios, Inc., (collectively “Counter-Plaintiffs”) through its undersigned counsel, hereby assert the following counterclaims against Counter-Defendant MM Games d.o.o. (“Plaintiff”) and Counter-Defendant Mateo Martíć (together, “Counter-Defendants”).

THE PARTIES

1. Counter-Plaintiff Jogo Studios, Inc. (“Jogo”) is a corporation organized under the laws of the States of Delaware and Texas with its principal place of business at 16030 Ventura Blvd., Suite 240, Encino, California 91436.

2. Counter-Plaintiff Chad Mustard is an individual residing in Lehi, Utah. Mr. Mustard is a Co-Founder and the Chief Operating Officer of Jogo.

3. Counter-Plaintiff Andre Rebelo-Soares, professionally known as “Typical Gamer” (“Typical Gamer”), is an individual residing in Vancouver, British Columbia, Canada. Typical Gamer is a Co-Founder, Chief Executive Officer, and Director of Jogo.

4. Upon information and belief, Counter-Defendant MM Games d.o.o. (“MM Games”) is a Croatian društvo s ograničenom odgovornošću (d.o.o.), with its principal place of business in Sesvete, Croatia.

5. Upon information and belief, Counter-Defendant Mateo Martić (“Martić”) is an individual residing in Sesvete, Croatia. Upon information and belief, Martić is the founder of MM Games.

JURISDICTION & VENUE

6. This Court has subject matter jurisdiction over these Counterclaims pursuant to 28 U.S.C. §§ 1331 and 1338 because they arise under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and pursuant to the principles of supplemental jurisdiction under 28 U.S.C. § 1367.

7. The Court has personal jurisdiction over MM Games and Martíć because

1 they have each substantial contacts in the U.S., California, and this judicial district in
2 particular. MM Games and Martíć purposefully directed their activities toward the
3 United States and the State of California, including by advertising, marketing,
4 uploading, and distributing works on the Fortnite platform that are marketed, accessed,
5 and played by users within California and this judicial district, and by expressly aiming
6 their wrongful acts at Jogo, whose principal place of business is located in this judicial
7 district, as well as the citizens of California and this judicial district specifically.

8. Upon information and belief, MM Games and Martíć derive substantial
9 revenue from its commercial activities in California and from California-based users of
10 its Fortnite Islands, including those accessed and played by residents of this judicial
11 district.

12. MM Games has purposefully availed itself of the benefits and protections
13 of this Court and U.S. copyright law by asserting claims under the Copyright Act in this
14 Court and engaging in commercial activity that targets California and U.S. consumers.

15. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and
16 1400(a) because a substantial part of the events giving rise to these Counterclaims
17 occurred in this District, including MM Games' and Martíć's wrongful conduct.

18 **FACTUAL BACKGROUND**

19. Fortnite is a widely popular multi-player online videogame developed by
20 Epic Games, Inc. ("Epic"). Fortnite was released on July 25, 2017, and has
21 approximately 500 million registered players.

22. Epic allows users to participate in designing their own videogames,
23 commonly called maps or "Islands." To do so, Epic provides two software tools:
24 Fortnite Creative and Unreal Editor for Fortnite ("UEFN"). UEFN provides users with
25 more powerful capabilities than Fortnite Creative, including allowing players to import
26 their own assets and write their own code using a coding language called Verse.

27. Along with Fortnite Creative and UEFN, Epic provides users with a
28 number of Epic-owned assets ("Epic Assets") that can be used to build an Island

1 videogame, including both structural and functional components. Epic Assets include,
2 but are not limited to:

3 a. Island templates: Premade Islands that a creator can use as a basis
4 for their own Island or to study to learn how to create their own Island. The creator can
5 then alter the template Island to achieve their desired design.

6 b. Tiles: Blocks that form the structure of the Island including the floor
7 and walls. They are tiles (in the shape of squares) by default that line up with the “Grid”
8 system that Fortnite’s building mechanics are based on.

9 c. Weapons: Gameplay ingredients creators can add to Islands that do
10 damage and use ammo/charges/energy, or do melee damage.

11 d. Items: Gameplay ingredients creators can add to Islands that
12 perform some function such as (i) heal players; (ii) give players unique mobility; or (iii)
13 can be collected as currency.

14 e. Item placers: A device that gives you a way to place weapons or
15 items in specific locations. The device acts as a container, but is shaped like the item
16 registered. When a player interacts with the device, it grants the registered item to that
17 player.

18 f. Timers: A device that provides a way for players to keep track of
19 the time something has taken, either for scoreboard purposes or to trigger actions. It can
20 be configured in several ways, and act either as a countdown to an event that is triggered
21 at the end, or as a stopwatch for an action that needs to be completed before a set time
22 runs out.

23 g. Grind rails: A flexible rail that a player can slide on to move quickly
24 from one point to another.

25 h. Vending machine: A device that can hold and spawn items, with an
26 optional cost for each item.

27 i. Vaults: A device a player can place in buildings on their Island, if
28 creators want to create a heist mechanic in their game. May also be used in connection

1 with timers.

2 j. Props: Pre-made Epic Assets creators can use to build and dress up
3 their levels. This includes walls, floors, doors, and various objects like tables, chairs,
4 and plants.

5 k. Prefabs: Pre-made arrangements of props to form buildings and
6 other structures.

7 l. Galleries: A thematic collection of props, grouped together by
8 purpose and theme.

9 m. Devices: Assets that creators can place in their projects to provide
10 gameplay functionality in their projects. For example, a “Player Spawner” device that
11 determines where a player will spawn during gameplay.

12 14. Users who create and design Fortnite Islands must accept and agree to
13 several agreements, including the Fortnite End User License Agreement (the “Fortnite
14 EULA”), the Fortnite Island Creator Rules, and the UEFN Supplemental Terms to the
15 EULA (the “UEFN Supplemental Terms”).

16 15. Epic allows creators to monetize their Islands through an engagement-
17 based revenue-sharing model known as Creator Economy 2.0, wherein Epic shares 40%
18 of its revenue from in-game purchases.¹ Engagement payouts are designed to reward
19 the creation of Islands that players enjoy and are based on metrics including player
20 popularity (*i.e.*, Islands that attract new players and re-engage lapsed players) and player
21 retention (*i.e.*, Islands where players return day-to-day and week-to-week). The most
22 successful Islands can generate hundreds of thousands, or even millions of dollars in
23 revenue.

24 16. Creators therefore have a monetary incentive to attract players to their
25 Islands.

26 17. Red vs. blue Islands are an extremely common type of Island and gameplay

28 ¹ See <https://www.fortnite.com/news/introducing-the-creator-economy-2-0>.

1 style in Fortnite, featuring teams and Islands divided between a red and blue team. The
2 first “red vs. blue” Island published on Fortnite around February 2019.

3 18. In fact, the red vs. blue genre within the videogame context long predates
4 Fortnite. For example, the red vs. blue genre appears in videogames such as Atari,
5 released in 1977, and in Halo, released in 2001. Halo’s red vs. blue game was so popular
6 that it inspired a parody show created by Rooster Teeth that ran for 18 seasons. Red vs.
7 blue combat even appears in declassified U.S. government military documents.

8 19. Within Fortnite, red vs. blue Islands are very popular with players,
9 attracting millions of players per month. As of May 5, 2025, over 10,000 creators have
10 made over 23,000 total Islands titled “red vs. blue.” Approximately 14 million active
11 players played red vs blue Islands in the month of April 2025 alone. Red vs. blue Island
12 are often featured on and highly ranked in Fortnite’s Team Deathmatch category.²

13 20. Creators of high performing Islands in the red vs. blue genre are therefore
14 likely to earn large engagement payouts.

15 21. Jogo is a cutting-edge videogame studio, pioneering game development in
16 the User Generated Content (or Developer-Made Content) space that publishes top
17 performing games on Fortnite and other gaming platforms. Jogo was founded by
18 Typical Gamer and Chad Mustard, and employs a team of Verse engineers, game
19 designers, and artists to build innovative gaming experiences utilizing Fortnite Creative
20 and UEFN.

21 22. Typical Gamer is a globally recognized videogame content creator and
22 streamer, with over 25 million YouTube subscribers and billions of views across a
23 variety of platforms. Typical Gamer was the first creator on Fortnite to reach one million
24 followers. Typical Gamer supports Jogo’s success by promoting their games to his
25 massive fan base through videos, livestreams, and social media posts.

26 23. Jogo’s most popular Island is Super Red Vs. Blue [Island Code 2786-2114-
27
28

² See <https://www.fortnite.com/categories/combat?lang=en-US>.

1 8349]. Jogo began developing Super Red Vs. Blue in August 2023 and published the
2 Island on September 29, 2023. Super Red Vs. Blue has become one of the most popular
3 Islands on Fortnite with over 385,000,000 game plays, and is often in the top rankings
4 of Fortnite's Combat and Team Death Match categories.³

5 24. Jogo promotes Super Red Vs. Blue through Typical Gamer's videos,
6 livestreams, and social media posts. For example, Typical Gamer frequently streams
7 and posts videos of his Super Red Vs. Blue gameplay. Because red vs. blue is a popular
8 genre on Fortnite and there are hundreds of other red vs. blue Islands, Typical Gamer
9 directs his viewers to find and play Super Red Vs. Blue specifically, in lieu of any other
10 red vs. blue Islands, including, for example, by suggesting that users type in "SUPER"
11 to the search bar on Fortnite. The Super Red Vs. Blue Island is also advertised in the
12 description along with its Island Code in each of Typical Gamer's videos.

13 25. Jogo began building the base for its Super Red Vs. Blue Island by
14 arranging various Epic Assets and other common game elements of Fortnite Islands,
15 including a red and blue Combat Zone with red and blue labels identifying each side,
16 Spawn Bases, weapon racks where players could pick up weapons to prepare for
17 combat, a vault where players could get higher level weapons and Items after a timer
18 expired, and grind rails. Various combinations of these features form the basis of many
19 Fortnite Islands and are not unique.

20 26. Jogo then designed and added its own original components, including a
21 unique ranking system, the "Super Wheel" that players can spin to randomize which
22 weapons they might receive, the "Superpower Wheel" that randomizes which
23 superpower a player might receive, a garage feature that allows players to access
24 vehicles to drive in the game, custom "mounts" or animals that players could ride,
25 custom vault aesthetics and animations, timed rewards, a separate diamond vault, a
26 separate vault with a key pad where players could input a code to gain access to fun

27
28 ³ See <https://fortnite.gg/island?code=2786-2114-8349>.

1 surprises, a voting system where players can submit feedback on the Island, a “bank”
2 where players can exchange and store diamonds and gold. Several of these original
3 components have since been copied by other creators.

4 **Super Wheel**



14 **Superpower Wheel**

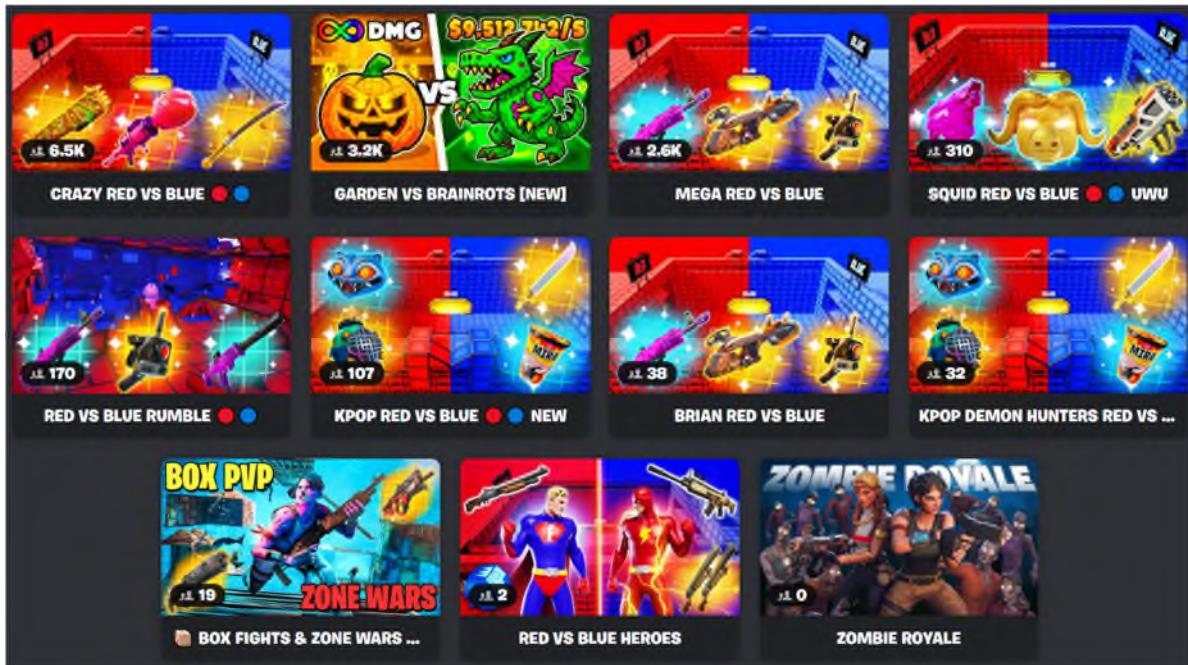


25 27. Jogo continuously develops and releases updates to Super Red Vs. Blue,
26 making changes to improve performance and gameplay and adding innovative new
27 features to maintain player engagement and distinguish itself from the many other red
28 vs. blue Islands.

MM GAMES' AND MARTÍC'S ANTI-COMPETITIVE CONDUCT

28. Counter-Defendants MM Games and Martíc have a history of
3 anti-competitive conduct against creators in the red vs. blue genre of Fortnite Islands.

4 29. Martíc has published several red vs. blue Islands, including Crazy Red Vs.
5 Blue, Mega Red Vs. Blue, Squid Red Vs. Blue, Red Vs. Blue Rumble, Kpop Red Vs.
6 Blue, Brian Red Vs. Blue, Kpop Demon Hunters Red Vs. Blue, and Red Vs. Blue
7 Heroes⁴.



18 30. Martíc, who previously used different creator names or usernames on
19 Fortnite including, “Boykaroo,” and “BURGER.GAMES,” even uses the creator name
20 “rvb” to reflect the red vs. blue genre.

21 31. Counter-Defendants’ Crazy Red Vs. Blue Island [Island Code 2898-7886-
22 8847], like Jogo’s Super Red Vs. Blue Island, is one of the most popular Fortnite Islands
23 and is regularly a top-ranked Island for Fortnite’s Combat and Team Death Match
24 categories.⁵

25 32. On information and belief, Counter-Defendants’ MM Games and Martíc

27
28 ⁴ See <https://fortnite.gg/creator?name=rvb>.

⁵ See <https://fortnite.gg/island?code=2898-7886-8847>.

1 have engaged in anti-competitive behavior by trying to artificially boost the exposure
2 and popularity of its own red vs. blue Islands, including its top-ranked Crazy Red Vs.
3 Blue Island, to attract more Fortnite players.

4 *MM Games and Martic's Abuse of the DMCA and False Copying Claims*

5 33. On information and belief, Counter-Defendants have filed numerous
6 DMCA takedown requests of other red vs. blue Islands based on false allegations.
7 When a DMCA request is filed, Epic removes public access the Island, making it
8 unavailable for players and negatively impacting player engagement and the creator's
9 engagement payouts.⁶ Moreover, due to the nature of Fortnite's search and discovery
10 algorithm, any removal from the search results, even for a short period of time, will
11 have an immediate and long-term impact on Island popularity and revenue, potentially
12 hundreds of thousands of dollars.

13 34. For example, on information and belief, Counter-Defendants filed a false
14 DMCA takedown request of an Island titled Red Vs. Blue Team Deathmatch⁷ developed
15 by a non-party to this litigation, not claiming any copyrighted material but rather an
16 unspecified trademarked name. This caused the Island to be unpublished and therefore
17 unavailable to Fortnite players.

18 35. On information and belief, Counter-Defendants also hired third parties to
19 file false DMCA takedowns of other red vs. blue Islands developed by non-parties to
20 this litigation which resulted in removal of those Islands.

21 36. As Counter-Plaintiffs' primary competitor, MM Games and Martic
22 intentionally attempted to divert players from playing Counter-Plaintiffs' Super Red
23 Vs. Blue and caused substantial harm to Counter-Plaintiffs.

24 37. On January 31, 2024, Counter-Plaintiffs received a DMCA takedown
25 request from Epic filed by Counter-Defendants. Counter-Defendants vaguely described
26

27 ⁶ See <https://dev.epicgames.com/documentation/en-us/fortnite/unpublishing-islands-in-fortnite-creative>.

28 ⁷ Island Code 7600-3376-2859.

1 the copyrighted work as the “original artwork” of Crazy Red Vs. Blue with a link to the
2 Island on Fortnite’s website. However, Counter-Defendants did not identify any
3 original artwork.

4 38. On information and belief, Counter-Defendants’ filed the DMCA
5 takedown against Counter-Plaintiffs with the intent of damaging their main competitor,
6 Counter-Plaintiffs, and not for the infringement of any original artwork; Counter-
7 Defendants’ anticompetitive maneuver was willful and intentional, with full knowledge
8 of the reputational, functional, and financial damage it would cause.

9 39. The invalidity of Counter-Defendants’ DMCA take-down request was
10 obvious. Following the Counter-Defendants’ malicious DMCA takedown request, Epic
11 republished Super Red Vs. Blue.

12 40. However, the short-term removal of Super Red Vs. Blue triggered by
13 Counter-Defendants’ DMCA takedown had already caused damage, and continues to
14 damage Counter-Plaintiffs, including by negatively impacting Super Red Vs. Blue’s
15 popularity and standing within Fortnite, ultimately resulting in the loss of player
16 engagement and associated engagement payout from Epic.

17 41. Further underscoring Counter-Defendants’ bad faith behavior is the fact
18 that Counter-Defendants themselves copied game elements originally designed and
19 published by Jogo in Super Red Vs. Blue, and later incorporated those copied elements
20 into Crazy Red Vs. Blue.

21 42. For example, Counter-Plaintiffs designed and published their vault before
22 Counter-Defendants. The image below shows the development of Counter-Plaintiffs’

23

24

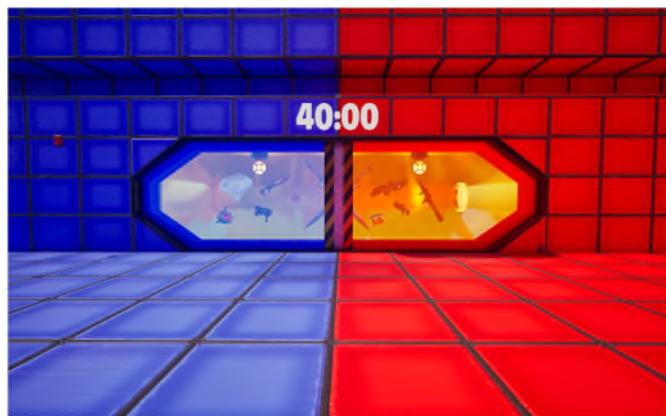
25

26

27

28

1 vault, which occurred in December 2023:



8 Publicly available YouTube videos show that Counter-Plaintiffs' vault was published
9 in Super Red Vs. Blue as early as December 22, 2023.⁸

10 43. As shown in the images below, Counter-Defendants then developed their
11 vault several months later in May 2024. Thus, after their DMCA takedown request
12 failed to permanently remove Super Red Vs. Blue, Counter-Defendants copied the
13 timed vault from Super Red Vs. Blue and falsely asserted copyright ownership over it.

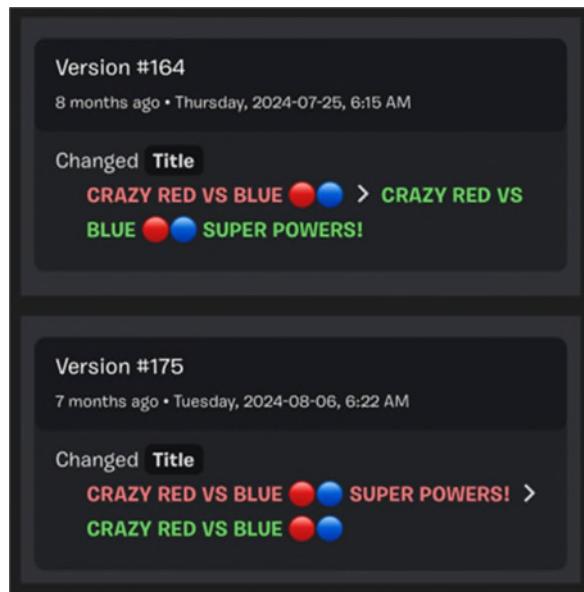


27
28 ⁸ See <https://www.youtube.com/watch?v=IC300sn2Zio&t=13150s>, streamed live on
December 22, 2023.

MM Games and Martíć's Use of "Super" to Deceive Players

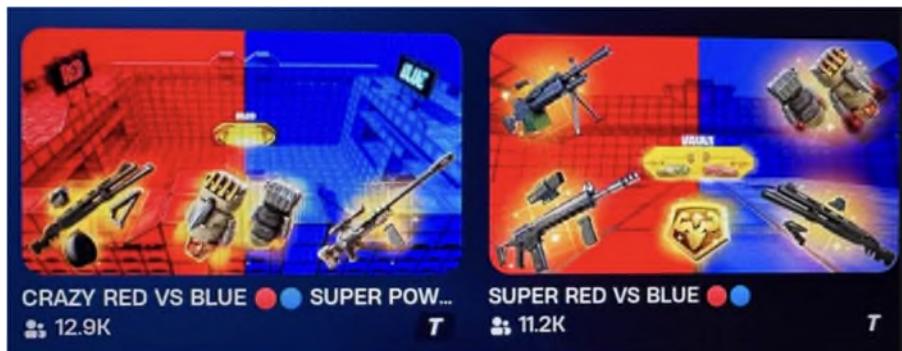
44. After the false DMCA failed to remove Super Red Vs. Blue from Fortnite, Counter-Defendants MM Games and Martic then tried to siphon off Super Red Vs. Blue players by adding the term “SUPER” to the Crazy Red Vs. Blue Island title in July-August 2024 and to Martic’s creator name in September 2024. Counter-Defendants were well aware that Counter-Plaintiffs heavily advertise that players can find Jogo’s Super Red Vs. Blue by typing in “SUPER” and intentionally sought to divert Counter-Plaintiffs’ players by making these key word changes that would mislead players away from Counter-Plaintiffs’ Super Red Vs. Blue Island to Counter-Defendants’.

45. On or around July 25, 2024, Counter-Defendants appended the words “SUPER POWERS” to the Crazy Red Vs. Blue Island title, intentionally misspelling “superpowers” so that the whole word “SUPER” would populate in users’ search results.⁹



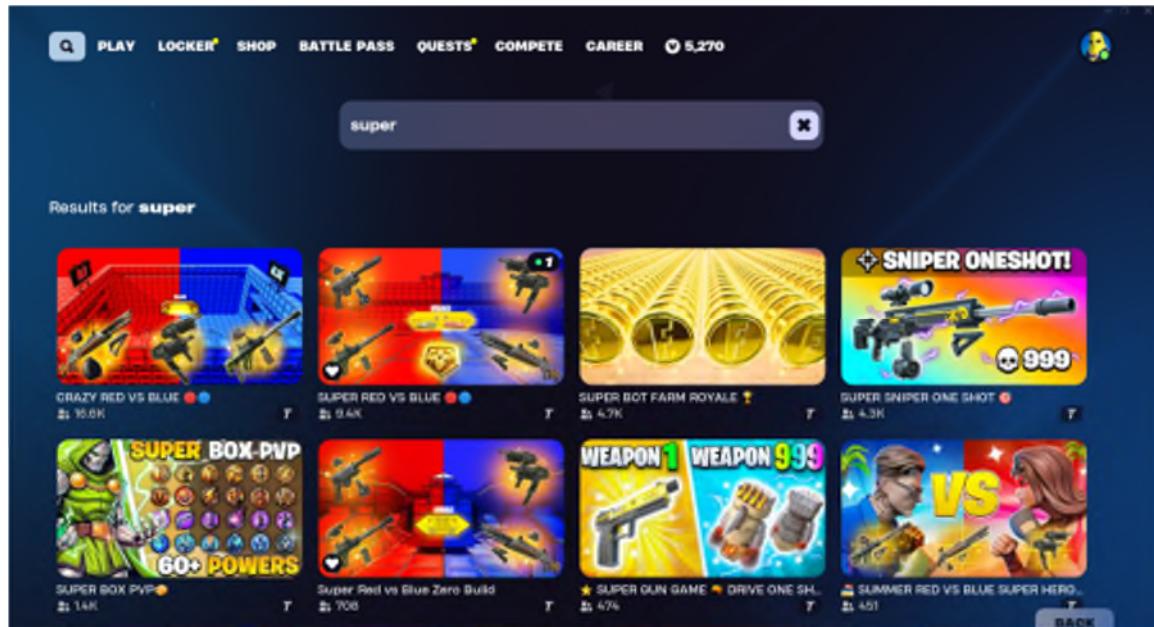
⁹ Image taken from <https://fortnite.gg/island?code=2898-7886-8847&history>.

1 46. This caused Crazy Red Vs. Blue to appear as the first red vs. blue Island
2 in the search results, which is where Super Red Vs. Blue would typically appear when
3 searching the term “SUPER”, and where users would expect to click when trying to
4 play Super Red Vs. Blue.



5
6
7
8
9
10 47. Counter-Defendants reverted back to the original island title on August 12,
11 2024.

12 48. On September 24, 2024, Martic temporarily changed his creator name to
13 SUPER-DOPE-RED in a blatant attempt to manipulate the Fortnite search and
14 discovery algorithm. This again caused Crazy Red Vs. Blue to appear as the first Island
15 when searching the term “SUPER”, further diverting players searching for Super Red
16 Vs. Blue to mistakenly access, play and, engage with Crazy Red Vs. Blue instead. This
17 is just one example of Counter-Defendants’ willful attempt to unfairly game the Fortnite
18 system.



49. By misleading Fortnite players and players searching for Super Red Vs. Blue, Counter-Defendants improperly benefited from player engagement at the expense of Counter-Plaintiffs.

50. Counter-Defendants' persistent anti-competitive conduct has caused substantial harm to Counter-Plaintiffs' business.

Martic's Public Harassment

51. At the same time, Martíć, in his personal capacity and in his capacity as CEO of MM Games, has taken to social media and public events hosted by Epic to harass Typical Gamer and make negative, derogatory comments about Typical Gamer, Mr. Mustard, other Jogo employees, and even members of Typical Gamer's fan community.

52. Martíć's public campaign has been a long, concerted effort by Martíć to damage the reputations of Jogo and Typical Gamer. Martíć is well aware that Super Red Vs. Blue is promoted by Typical Gamer, as the CEO and Co-founder of Jogo, through his streams, videos, and social media posts and thus benefits from Typical Gamer's popularity and massive fan base. Martíć has therefore sought to damage the reputations of Typical Gamer and Jogo and deter users from playing Super Red Vs. Blue.

53. Martíć has made it a habit to comment on social media posts by or about Typical Gamer. For example, Martíć has posted defamatory comments calling Typical Gamer a “hypocrite” who is talented at “tricking kids” and implying that Jogo uses deceptive tactics in Super Red Vs. Blue to receive likes/favorites from players. These statements are false. Martíć has also posted doctored images of Typical Gamer edited to harass or cause embarrassment to Typical Gamer.

54. Martić has also frequently commented on social media posts about Jogo's employees and Super Red Vs. Blue. For example, Martić once called Mr. Mustard a derogatory and homophobic term in Croatian on a social media post featuring Mr. Mustard as a Fortnite creator. Martić has gone so far as to call a Super Red Vs. Blue

1 player and member of Typical Gamer’s community a “pompous pig” in Croatian on a
2 social media post.

3 55. Martíć’s actions came to a boiling point during Unreal Fest 2024, an annual
4 event hosted by Epic where game developers, creators, and many others gather to learn
5 more about updates to Epic’s ecosystem.¹⁰ Unreal Fest 2024 occurred around
6 September 30 to October 3, 2024 in Seattle. Martíć registered for the event under a fake
7 name and approached Typical Gamer, who was unaware of what Martíć looked like at
8 the time. Martíć posed as a genuine fan, introducing himself with a fake name and even
9 requesting a photograph with Typical Gamer. Martíć proceeded to attend every single
10 presentation where Typical Gamer was a keynote speaker in addition to a presentation
11 where Mr. Mustard was a keynote speaker.

12 56. Near the end of Unreal Fest 2024, Typical Gamer walked by Martíć, who
13 suddenly and aggressively yelled out “HEY TYPICAL GAMER, F*** YOU” in front
14 of other Unreal Fest attendees. Martíć and Typical Gamer had another confrontation
15 the next day, where Martíć verbally accosted Typical Gamer in an aggressive and
16 threatening manner, expressing frustration and resentment over Jogo’s ability to market
17 Super Red Vs. Blue through Typical Gamer. When Typical Gamer pointed out some
18 of Martíć’s intentional anticompetitive behavior, asking Martíć about changing his
19 creator name to SUPER-DOPE-RED, Martíć responded with a gender-identity joke.
20 When Typical Gamer then asked how they could resolve whatever issues Martíć had,
21 Martíć suggested a boxing match, presumably sarcastically.

22 57. Martíć acted with intent to cause harm to Typical Gamer’s reputation and
23 Jogo’s business to deter players from playing Super Red Vs. Blue and thereby
24 decreasing its rankings and player engagement.

25 58. Martic’s campaign of harassment and anti-competitive tactics contradicts
26 that spirit of the creative and collaborative Fortnite creator economy and negatively
27

28 ¹⁰ See <https://www.unrealengine.com/en-US/events/unreal-fest-seattle-2024>.

1 impacts the Fortnite community.

2 **FIRST CAUSE OF ACTION**

3 **(Knowing Material Misrepresentation – 17 U.S.C. § 512(f))**

4 59. Counter-Plaintiffs reallege and incorporate by reference paragraphs 1
5 through 58 as though fully set forth herein.

6 60. On January 31, 2024, Counter-Plaintiffs received a DMCA takedown
7 request from Epic filed by Counter-Defendants MM Games and Martíć which falsely
8 asserted infringement of unidentified “original artwork” of the Crazy Red Vs. Blue
9 Island.

10 61. Counter-Defendants filed the DMCA request knowing there was no
11 infringement of any “original artwork” in Counter-Plaintiffs’ Super Red Vs. Blue
12 Island.

13 62. Counter-Defendants’ DMCA takedown request caused Epic to remove or
14 unpublish Jogo’s Super Red Vs. Blue Island.

15 63. Counter-Plaintiffs were injured as a result of Counter-Defendants’ DMCA
16 takedown request, including the resulting removal or disabling of content and the loss
17 of players and player engagement, short term and long-term negative effects on Super
18 Red Vs Blue’s rankings and appearance in Fortnite’s search results, and reputational
19 harm.

20 64. Counter-Plaintiffs bring this claim within the three-year statute of
21 limitations pursuant to 17 U.S.C. § 507(b).

22 **SECOND CAUSE OF ACTION**

23 **(Unfair Competition — Cal. Bus. & Prof. Code § 17200 et seq.)**

24 65. Counter-Plaintiffs reallege and incorporate by reference paragraphs 1
25 through 64 as though fully set forth herein.

26 66. Counter-Defendants MM Games and Martíć have engaged in unlawful and
27 unfair business acts and practices in violation of California Business and Professions
28 Code § 17200 et seq. by, among other things, misleading and deceiving Fortnite players

1 seeking to play Super Red Vs. Blue into accessing, playing, and engaging with Crazy
2 Red Vs. Blue instead; filing a false DMCA takedown request and causing the removal
3 of Super Red Vs. Blue from Fortnite; and otherwise engaging in conduct that
4 significantly threatens or harms competition among Fortnite creators.

5 67. Counter-Defendants' conduct was intended to cause harm and has actually
6 caused harm to Counter-Plaintiffs by, among other things, causing decreased player
7 engagement with Super Red Vs. Blue, and thus the revenue generation from and
8 popularity of Super Red Vs. Blue.

9 68. Counter-Defendants' conduct constitutes unlawful business practices
10 because it violates the Copyright Act, and thus is an unlawful practice under the UCL.

11 69. Counter-Defendants' conduct constitutes unfair business practices because
12 it offends public policy, is immoral, unethical, oppressive, and unscrupulous, and the
13 utility of its conduct, if any, is outweighed by the gravity of the harm to competition
14 and to Defendants. Counter-Defendants' conduct significantly harms competition
15 within the Fortnite creator community and the red vs. blue genre in Fortnite.

16 70. As a direct and proximate result of Counter-Defendants' unfair
17 competition, Counter-Plaintiffs have suffered and continue to suffer injury in fact and
18 actual monetary loss, including lost revenue, diminished goodwill, and harm to business
19 relations, professional reputation, and prospective opportunities.

20 71. Counter-Plaintiffs seek restitution, injunctive relief, disgorgement of ill-
21 gotten gains, and any other relief the Court deems proper under Cal. Bus. Prof. Code §
22 17200 et seq.

23 72. This claim is timely brought within the four-year limitations period
24 pursuant to Cal. Bus. Prof. Code. § 17208.

25 **THIRD CAUSE OF ACTION**

26 **(Intentional Interference with Prospective Economic Advantage)**

27 73. Counter-Plaintiffs reallege and incorporate by reference paragraphs 1
28 through 72 as though fully set forth herein.

74. Counter-Plaintiffs had and continue to have a prospective economic relationship with Epic, such that there is a probability of future economic benefit to Counter-Plaintiffs. Jogo regularly receives engagement payouts from Epic due to high player engagement with Super Red Vs. Blue. Any decrease in player engagement will result in a decrease in engagement payouts.

75. Counter-Defendants MM Games and Martic had knowledge of these prospective relationships and of Defendants' expectancy of future economic advantage.

76. Counter-Plaintiffs intentionally and improperly engaged in acts designed to disrupt those prospective relationships, including by knowingly lodging false and/or misleading DMCA notices and by deceiving the public and the Fortnite player base as to the authorship, origin, and ownership of its Island.

77. Counter-Defendants' intentional acts did in fact disrupt Counter-Plaintiffs' prospective relationships, including the loss of player engagement from the Fortnite player base and the loss of engagement payouts from Epic.

78. As a proximate result of Counter-Defendants' wrongful and intentional interference, Counter-Plaintiffs have suffered economic harm and damages in an amount to be proven at trial.

79. Counter-Defendants' conduct was wrongful by a legal measure independent of the interference itself, including violations of the Copyright Act and California Unfair Competition Law.

80. This claim is timely brought under the two-year limitations period applicable to tortious interference claims.

REQUEST FOR RELIEF

WHEREFORE, Counter-Plaintiffs respectfully request that the Court:

1. Enter judgment in favor of Counter-Plaintiffs on all Counterclaims;
2. Award Counter-Plaintiffs all damages, including costs and attorneys' fees, caused by Counter-Defendants' false and misleading DMCA takedown request pursuant to 17 U.S.C. § 512(f);

3. Award Counter-Plaintiffs restitution and injunctive relief pursuant to Cal. Bus. Prof. Code. § 17200 et seq. from Counter-Defendants' unlawful and unfair business acts and practices;

4. Award Counter-Plaintiffs all damages, including costs and attorneys' fees, caused by Counter-Defendants' intentional interference of prospective economic advantage;

5. Award Counter-Plaintiffs all pre-judgment and post-judgment interest, as appropriate;

6. Grant such other and further relief as the Court deems just and equitable.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Counter-Plaintiffs demand a trial by jury on all issues triable by right to a jury in this matter.

Dated: November 13, 2025

NIXON PEABODY LLP

By: /s/ Erica J. Van Loon
Erica J. Van Loon (State Bar No. 227712)
evanloon@nixonpeabody.com
Stacy M. Boven (State Bar No. 298734)
sboven@nixonpeabody.com
Jacqueline D. Relatores (State Bar No.
341583)
jrelatores@nixonpeabody.com
NIXON PEABODY LLP
300 S. Grand Avenue, Suite 4100
Los Angeles, CA 90071-3151
Telephone: (213) 629-6000
Facsimile: (213) 629-6001

Attorneys for Defendants and Counter- Plaintiffs

Typical Gamer, Chad Mustard, and Jogo Studios, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2025, I filed and therefore caused the foregoing Counter-Plaintiffs' Counterclaims to be served via CM/ECF in the United States District Court for the Central District of California on all parties registered for CM/ECF in the above-captioned matter.

/s/ Erica J. Van Loon
Erica J. Van Loon